

EXHIBIT A



U.S. Department of the Treasury

Application for Section 1603 - Payments for Specified Renewable Energy Property in Lieu of Tax Credits

Application for Section 1603:

Payments for Specified Renewable Energy Property in Lieu of Tax Credits

ORIGINAL ANNUAL PERFORMANCE REPORT AND CERTIFICATION

The Annual Performance Report and Certification must be submitted annually, 21 calendar days after the date the property was placed in service, e.g., if the property was placed in service on January 10, 2011, the first report and certification are due January 31, 2012. The report covers a one-year period beginning on the placed in service date. Subsequent reports cover a one-year period beginning on the day after the last day covered by the prior year's report.

The Annual Performance Report and Certification is required on an annual basis for a period of five years after the energy property was placed in service.

Failure to supply the Annual Performance Report and Certification as required by the Terms and Conditions signed under penalty of perjury will result in recapture of the funds received.

Year: 1 TAN: 2012E45BC064314

Section 1 - Disposition of the Property

1.1. Has the energy property (for example: solar panels, wind turbine) been sold or transferred during this year?

☒ No
☐ Yes

Section 2 - Owner Information (This information is about the current owner of the energy property.)

2.1 Are changes needed in the information below?

☐ No
☒ Yes

Business Name:	GUSC ENERGY, INC.	Street address 1:	410 PHOENIX DRIVE
Phone:	315-838-4872	Street address 2 (optional):	
Employer Identification Number (EIN):	452763695	City:	ROME
DUNS Number:	039394053	State:	New York ▼
Website address (optional):	http://www.guscenergy.com	Zip code:	13441

Explain the change(s):

0

2.2. Has the entity that owns the energy property or any interest in entity that owns the energy property been sold or transferred?

☒ No
☐ Yes

2.3. Are changes needed in the information below for contacting the current owner?

☒ No
☐ Yes

First name:

MICHAEL

Last name:

DAVIS

Organizational affiliation:

PRESIDENT, GUSC ENERGY, INC.

E-mail address:

mdavis@guscenergy.com

Phone:

315-727-7477

Fax:

315-838-4877

2.4 Has the owner of the energy property filed for bankruptcy?

☒ No
☐ Yes

Section 3 - Property Information

3.1. Has a tax credit (section 45 or 48 of the Internal Revenue Code) been claimed for this energy property? (This does not mean the 1603 payment.)

☒ No
☐ Yes

3.2. Was the energy property located outside of the United States except as described in section 168(g)(4) of the IRC?

☒ No
☐ Yes

3.2.1 Has the use of the energy property changed from the description in the application such that it is no longer used in a trade or business or held for the production of income? (i.e. no longer subject to depreciation or amortization in lieu of depreciation.)

☒ No
☐ Yes

3.3. Has the name of the project changed from the one shown below?

☒ No
☐ Yes

Project Name:

GUSC ENERGY OPEN-LOOP BIOMASS PROJECT

3.4. Has the location of the energy property changed from the location shown below?
☒ No
☐ Yes

Street Address 1: 655 ELLSWORTH RD *City: ROME

Street Address 2 (optional): *County: ONEIDA

State: New York Zip Code: 13441 00000[-0000]

Section 4 - Energy Production**4.0 Has the energy property, as of the date of this report, stopped producing energy?**
☐ No
☒ Yes
4.0.1 Are any actions being taken to cause the energy property to resume producing energy?
☐ No
☒ Yes
Describe actions being taken to cause the energy property to resume producing energy:

The facility is not currently operating for two reasons: 1) The EPC contractor responsible for the plant design/build is currently reviewing a problem that has resulted in excessive forces being applied on the exit flange of the steam turbine during operation. The measured forces are many times the allowable limits and it appears that a rework of the outlet piping will be required. The review is ongoing, but it is hopeful that this issue will be resolved within the next 2 to 3 months. 2) GUSC Energy is not currently able to secure sufficient fuel at a price that would allow for economic dispatch of the unit. GUSC is actively seeking relief and expects to secure additional sources within the next 6 to 7 months. GUSC Energy intends to restart operations as soon as these two problems are resolved.

Limit to 1,000 characters

4.1. Annual Production — Enter the actual annual production in the past year of the energy property in kilowatt hours, MMBTUs, or horsepower, as applicable. NOTE: Leave blank for solar thermal (less than 0.1 MMBTU/hr), solar lighting, or geothermal heat pump.

Annual production: 2230020 kWh ☐ kW ☐ hp ☐ MMBTU 135653 MMBTU

Electrical Mechanical Thermal

4.1.1. Is this year's annual production less than the estimated annual production entered in section 4D of the application?
☐ No
☒ Yes
Explain the reduced annual production this year:

First year of operation included a problem with a high vibration issue associated with the generator, several issues with safety relief valves and a faulty throttle on the steam turbine. The result was throttled operation, inefficient turbine generator operation, forced outages and reduced electrical output. The turbine generation meter was also an issue. The generator was replaced and the problem with the turbine was repaired. Other system upgrades/changes were also made including calibration of a faulty electric generation meter. See section 4.2.

Limit to 1,000 characters

4.1.2. Has any "unit of property" been replaced or permanently ceased to produce energy? For purposes of this question a "unit of property" for a wind farm is a single electricity-generating wind turbine, its tower, and its supporting pad. For solar property, if this TAN included solar installations on different buildings (for example multiple buildings on a college campus or at an apartment complex) or at different locations, each solar installation is a unit of property.

☒ No
☐ Yes

4.2. Have there been any interruptions in production during the year, other than routine maintenance?

☐ No
☒ Yes

Provide dates and explanation:

This was the first year of operation. A number of problems were encountered that resulted in boiler or turbine outage events which in-turn affected energy output. The more significant of these is listed below. Outages lasted from several hours to several days.

- Multiple turbine trips in November, December, and April due to high vibration alarms.
- Fuel feed issues associated with conveyor icing in December and January.
- Boiler safety valve replacements in March.
- Generator was replaced in May 2014 because of ongoing high vibration issues and turbine outages.
- Testing in April 2014 revealed that turbine outlet flange forces and moments are exceeding OEM specifications. GUSC Energy is working with EPC contractor to redesign and install piping system repair to address the issue.

Limit to 1,000 characters

4.3. Attach supporting documentation that provides evidence of annual production — Examples of supporting documentation are: a statement of the annual metered net electric energy generated during the year by the specified energy property, operation logs showing energy production, utility bills verifying energy production, a comparison with previous year's electric bills.

Attached is supporting documentation that provides evidence of annual production:

ACCEPTED FILE TYPES: Office (doc, docx, xls,xlsx), comma separated value (csv), Adobe Portable Document Format (pdf), and plain text (txt) formats. Limit total size of all files to 100 MB or less.

If you require more uploads than this form provides, supplement these with the "Add/Modify Supporting Documentation" function under the Application Package Control Panel for this application when finished.

4.5. Specific Performance Measures — Answer according to the year covered by this report:

- ☒ Biomass (open loop, cellulosic) If a portion of the fuel is not open-loop biomass of this type, give the percentage of fuel, on an annual basis, that is

open-loop biomass of this type: %.

Section 5 - Certification and Signature of Owner/Preparer

I certify, under penalty of perjury, that the energy property has not been disposed of to a disqualified person that the property continues to qualify as specified energy property, and that a tax credit (Section 45 or 48 of the Internal Revenue Code) has not been claimed and declare that all of the information provided is true correct and complete. Further, I agree the information contained in this report can be disclosed to the Internal Revenue Service.

First Name:	<input type="text" value="MICHAEL"/>	Last Name:	<input type="text" value="DAVIS"/>
Title:	<input type="text" value="PRESIDENT, GUSC ENERGY, INC."/>	Phone:	<input type="text" value="315-727-7477"/>
Email:	<input type="text" value="mdavis@guscenergy.com"/>	Signature (enter your password):	<input type="text" value="*****"/>

Entering your password has the same legal effect as your handwritten signature.

NOTE: We strongly suggest that you print this form prior to submitting

The National Renewable Energy Laboratory is providing technical assistance for Section 1603 applications on behalf of the U.S. Treasury Department
NREL is a national laboratory of the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, operated by the Alliance for Sustainable Energy, LLC

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EXHIBIT B



U.S. Department of the Treasury

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Year: 2 TAN: 2012E45BC064314

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2.1 Are changes needed in the information below?

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☐ Yes

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☐ Yes

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Section 4 - Energy Production

4.0 Has the energy property, as of the date of this report, stopped producing energy?

☐ No
☒ Yes

4.0.1 Are any actions being taken to cause the energy property to resume producing energy?

☐ No
☒ Yes

Describe actions being taken to cause the energy property to resume producing energy:

The facility is not currently operating since GUSC Energy is not currently able to secure sufficient fuel at a price that would allow for economic dispatch of the unit. Natural gas prices are at near record lows in the area and have driven down energy prices well below forecasted levels. Correspondingly, biomass fuel must be procured at prices below what was original forecast to be competitive. GUSC Energy is actively seeking relief by identifying ways to procure biomass fuels at lower prices. GUSC Energy will restart operations as soon as this issue is resolved.

Limit to 1,000 characters

4.1. Annual Production — Enter the actual annual production in the past year of the energy property in kilowatt hours, MMBTUs, or horsepower, as applicable. NOTE: Leave blank for solar thermal (less than 0.1 MMBTU/hr), solar lighting, or geothermal heat pump.

	Electrical	Mechanical	Thermal
Annual production:	0 kWh	<input type="radio"/> kW <input type="radio"/> hp	<input type="radio"/> MMBTU 0 MMBTU

The actual production and estimated annual production (entered in section 4D of the application) differ. Explain the difference:

See response to section 4.0.1

Limit to 1,000 characters

4.1.1. Is this year's annual production less than the estimated annual production entered in section 4D of the application?

☐ No
☒ Yes

Explain the reduced annual production this year:

The unit is not economically dispatchable.

Limit to 1,000 characters

4.1.2. Has any "unit of property" been replaced or permanently ceased to produce energy? For purposes of this question a "unit of property" for a wind farm is a single electricity-generating wind turbine, its tower, and its supporting pad. For solar property, if this TAN included solar installations on different buildings (for example multiple buildings on a college campus or at an apartment complex) or at different locations, each solar installation is a unit of property.

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First Name: MICHAEL

Last Name: DAVIS

Title: PRESIDENT, GUSC ENERGY, INC.

Phone: 315-727-7477

Email: mdavis@guscenergy.com

Signature (enter your password):

Entering your password has the same legal effect as your handwritten signature.

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Content Last Updated: February 12, 2016
Version: 16.02.1.LLC 20160211141300

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 FEDERAL CLAIMS
3 -----

4 GUSC ENERGY, INC.,

5 Plaintiff,
6

7 vs.

Index No. 14-1228-T

8 UNITED STATES OF AMERICA,
9

10 Defendant.
11 -----
12

13 Examination Before Trial of DANIEL L. MANEEN,
14 taken at the United States Attorney's Office, James
15 Hanley Federal Building, Ninth Floor, 100 Clinton
16 Street, Syracuse, New York, before Anne M. Messineo,
17 Registered Professional Reporter and Notary Public in
18 and for the State of New York on the 18th day December
19 2015.
20
21
22
23
24
25

I N D E X

WITNESS:Pages**DANIEL L. MANEEN**

By Mr. Selmont

5 - 181, 186 - 187

By Mr. Jacobs

182 - 186

1 *Maneen - Selmont*

2 A. No.

3 Q. Has the plant been operational during most of
4 the past two years?

5 A. No.

6 Q. Can you tell me more about that?

7 A. Sure. It's -- again, it's economics. And as I
8 mentioned earlier, the cost of wood chips at 3.50 a
9 decatherm is substantially higher than what we
10 purchase gas for -- GUSC purchases gas for, which the
11 month of -- \$2 a decatherm, so you go back to the
12 mission statement of providing the most economical
13 fuel choice. We are running natural gas, and the
14 biomass system economics in 2014 dictated the biomass
15 system, and in 2015 it's natural gas.

16 Q. And do you know when -- let me take a step
17 back. Is the biomass facility operating currently?

18 A. No.

19 Q. At what point was it shutdown?

20 A. I have to go back and look exactly. I'm not
21 hundred percent sure. It didn't start-up -- I don't
22 believe it started up last heating season, but I have
23 to go back and look to be sure.

24 Q. Did it operate throughout the heating season
25 that ended in May or so of 2014?

1 *Maneen - Selmont*

2 A. I think -- yes, it did. It operated through
3 heating season 2014.

4 Q. Through that heating season was it ever shut
5 down?

6 A. No. That's when, again, because wood chips
7 were economical at that point and it was a first-year
8 start-up.

9 Q. Do you know the date in 2014 when it was shut
10 down?

11 A. Again, first or second week in May I would
12 think.

13 Q. Since that shut down, it has not been
14 restarted; is that correct?

15 A. It has not been necessary. It's ready to go.
16 It's just a matter of it's more economical to run
17 natural gas on the older system.

18 Q. Okay. So no power, no electricity, nor any
19 steam has been produced in the new biomass facility
20 since May of 2014?

21 A. Correct.

22 Q. Okay.

23 A. Just let me clarify, though.

24 Q. Sure.

25 A. It is ready, it is available, and if wood chips

1 *Maneen - Selmont*

2 were a dollar a decatherm, we would be running it.

3 Q. Okay. When did you make the decision not to
4 restart the biomass facility for the following heating
5 season after it was shut down?

6 A. When natural gas prices tanked.

7 Q. And do you know when that was?

8 A. Probably had to be the Fall of 2014. I think
9 that's when we saw the precipitous fall of gas through
10 various ranges.

11 Q. Just to clarify, the -- after you shut down the
12 facility in May of 2014, did you have to do anything
13 else other than your normal laid-up procedures since
14 you weren't going to be restarting it that following
15 winter season, heating season?

16 A. As I mentioned earlier, we did have to replace
17 the generator --

18 Q. Uh-huh.

19 A. -- uhm, as a warranty, and we did that in June,
20 and we did run the system in June to make sure the
21 generator operated, but that was just for about three
22 weeks, and then we shut it down again.

23 Q. And when it was operating, did it produce
24 electricity?

25 A. Yup.

1 *Maneen - Selmont*

2 Q. And what did you do with that electricity?

3 A. Goes in -- goes to the -- into the mix with the
4 rest of our electricity.

5 Q. And other than that replacement of the
6 generator, is there any other type of maintenance you
7 have done since June of 2014 to the present?

8 A. Yeah. The normal maintenance is to run the
9 conveyors weekly, you know, take any rotating
10 components and make sure that they do not set up so
11 you tip the conveyors -- I'm sorry, you tip the truck
12 tipper. You exercise all the hydraulics. There's
13 various things, weekly and monthly things you do to
14 make sure your system is ready to run when you want to
15 run it.

16 Q. And where does the power come to do that?

17 A. Uhm, from Griffiss Utility Services. They sell
18 power to GUSC Energy.

19 Q. Other than moving and making sure that the
20 turbine is still moving around to prevent any type of
21 issues with it or that the truck -- tipping the
22 truck --

23 A. Tipper.

24 Q. -- tipper and running the conveyor, are there
25 any other types of -- general types of things that you

1 *Maneen - Selmont*

2 do?

3 A. No. I think that covers it.

4 Q. All right. Is the equipment for the biomass
5 plant still there?

6 A. Yes.

7 Q. Have any of the pieces of the biomass plant
8 been removed?

9 A. No.

10 Q. If you were to decide to sell the plant, could
11 you take the plant apart and sell it piece by piece?

12 A. I don't see why not. It was built piece by
13 piece.

14 Q. Is that economically feasible to do? For
15 example, would someone buy a used generator?

16 MR. JACOBS: Objection. Speculation. You
17 can answer the question. Go ahead.

18 A. It's probably the same thing as when you drive
19 a car out of the showroom, are you going to turn
20 around and sell it to somebody else? It's a used car.
21 Would it be feasible or economical? I would think
22 not, but just speculation.

23 Q. Okay. Does GUSC Energy plan on restarting the
24 plant?

25 A. Yes.

1 *Maneen - Selmont*

2 Q. When?

3 A. When it's economically feasible, and if we had
4 ~~our grant in full, we probably would run it.~~

5 Q. Have you done any forecasting to determine when
6 it might be economically feasible to do so, to restart
7 the biomass plant?

8 A. Yes and no. Again, it's dependent on natural
9 gas prices or other extenuating circumstances. For
10 example, if our Government customers said, look, I
11 need green energy to survive, we would start it up
12 regardless of how much it cost.

13 Q. Why would a Government entity, Government
14 customer need green energy to survive?

15 A. For example, BRAC process in 2017, which is
16 going to be the case, at least I believe that's the
17 case, and our Air Force friends came to us and said,
18 we need green energy to put us above our competition,
19 we would make that decision to operate for that
20 reason, regardless of what it would cost in difference
21 in fuel.

22 Again, it would be -- it would be an intrinsic
23 reason, not an economic reason. Right now we're
24 operating with the gas because it's economically
25 feasible.

1 *Maneen - Selmont*

2 Q. Uh-huh. Okay. Do you expect biomass fuel
3 prices to go down?

4 A. I expect them -- should they go down, yes.
5 Will they go down, probably not.

6 Q. Do you expect natural gas prices to increase?

7 A. Yes.

8 Q. In what timeframe?

9 A. I guess if I could tell you, I probably
10 wouldn't be sitting here. If you look at the natural
11 gas futures, as you go out, you have a market that
12 rises with history. You know, the further you go out,
13 the higher the prices get. There is a point on the
14 curve where you do get to be economical, but that
15 continually moves.

16 So again, I can't tell where the gas markets
17 are going to be in a year or two years. If something
18 happens, for example, they ban hydrofracking in West
19 Virginia and Pennsylvania and Ohio, natural gas prices
20 would go to \$20 a decatherm. Certainly we would be
21 burning biomass all day.

22 Q. Okay.

23 A. But again, it's purely speculation in the
24 markets that I have no control over.

25 Q. Has either GUSC or GUSC Energy entered into any

1 *Maneen - Selmont*

2 forwards or futures contracts for the price of either
3 natural gas or biomass fuel?

4 A. GUSC Energy, no. Griffiss Utility Services,
5 yes.

6 Q. And what types of contracts did you enter into?

7 A. I have a contract -- Griffiss Utilities has a
8 contract through -- I think it's through April of 2016
9 and that's at --

10 Q. Is it a forward or a future?

11 A. It's a future.

12 Q. And what will happen if -- I'm sorry. Future
13 on natural gas?

14 A. Correct.

15 Q. And what happens if -- do you know what the --
16 what the target price is, for lack of a better term?

17 A. What Griffiss Utilities has now is the bases
18 locked up, which is the transportation-type scenario.
19 Then you just match the physical -- either hit the
20 price prior to expiration or you get the expiration
21 price. Right now I didn't look at the numbers. I
22 don't have my phone. They took my phone. I believe
23 it was in the high -- in the low two-dollar ranges, by
24 April, I think. Again, as of yesterday was -- January
25 was 1.70. As you went out, it kind of rose up. I

1 *Maneen - Selmont*

2 think it got to April little over two, I believe.

3 Q. That's \$2 a decatherm?

4 A. A decatherm.

5 Q. Is that the only future contract you entered
6 into -- GUSC has entered into?

7 A. Yes. Now we have -- Griffiss Utility Services
8 has electric contracts that are special contracts from
9 the State of New York called Recharge New York, which
10 is a fixed price, low price for a certain amount of
11 our quantities, so that would be equivalent to a
12 fixed-price contract, if everything else is market
13 based.

14 Q. Do you currently have a supplier for biomass
15 fuel?

16 A. We have a main supplier, and he subs to a bunch
17 of different folks.

18 Q. And who is that?

19 A. Kevin Regan. I think it's Regan Logging.

20 MR. SELMONT: Can we mark this as a new
21 exhibit.

22 (Whereupon, Exhibit No. 6 marked for
23 identification.)

24 Q. Do you know what this document is?

25 A. Yes, I do.

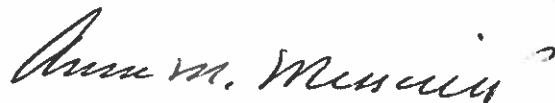
1 *Maneen - Selmont*

2
3 C E R T I F I C A T I O N
4

5 I, Anne M. Messineo, Registered Professional
6 Reporter and Notary Public in and for the State of New
7 York, DO HEREBY CERTIFY that I attended the foregoing
8 proceeding, took stenographic notes of the same, and
9 that the foregoing, consisting of 187 pages, is a true
10 and correct copy of the same and the whole thereof.

11 I further certify that the witness requests to
12 review said transcript;

13 I further certify that I am not an attorney or
14 counsel of any parties, nor a relative or employee of
15 any attorney or counsel connected with this action, nor
16 financially interested in same.

17
18 

19 Anne M. Messineo, RPR
20
21
22

23 DATED: January 4, 2015.
24
25